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STATE OF WISCONSIN
BEFORE THE DENTISTRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

BRIAN PAINTER, D.D.S.

RESPONDENT

ORDER RESTORING SUSPENDED LICENSE

99 Den 019

LS 9911191 DEN

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PARTIES

The parties to this action for the purposes of s. 227.53 Stats., are:

*Brian C. Painter, D.D.S.
N7784 State Park Rd.
Sherwood, WI 54169*

*Pamela Stach
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935*

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on December 1, 1999, before Administrative Law Judge William A. Black. The Division of Enforcement appeared by Attorney Pamela M. Stach. The respondent, Brian Painter, D.D.S. appeared. Also appearing representing the respondent was Peter J. Hickey, with the law firm of Everson, Whitney, Everson & Brehm, S.C., 125 S. Jefferson St., Suite 106, P.O. Box 22248, Green Bay, Wisconsin 54305-2248.

Based on the pleadings, stipulations, and evidence filed in this case and testimony admitted at the hearing of the above entitled matter, the undersigned administrative law judge makes the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. Brian C. Painter, is currently licensed to practice dentistry in the state of Wisconsin.
2. On November 10, 1999, the Dentistry Examining Board after notice to respondent ordered the summary suspension of respondent's license to practice dentistry in the state of Wisconsin, pursuant to s. 277.51(3), Stats.
3. For purposes of the present hearing, the parties stipulated to the truth of the facts stated in paragraphs 1 through 42 of the Order for Summary Suspension entered on November 10, 1999, and that the administrative law judge may use the those facts as a basis for any decision rendered in this matter, such facts are hereby incorporated as if set forth fully herein.
4. For purposes of the present hearing, the parties stipulated to place into evidence the affidavit of Gregory M. Samuels, D.D.S., dated November 5, 1999, without objection from respondent, and that the administrative law judge may use the content of the affidavit as a basis for any decision rendered in this matter, such content is hereby incorporated as if set forth fully herein.

CONCLUSIONS OF LAW

1. The Dentistry Examining Board has jurisdiction in this matter pursuant to s. 447.07, Stats., s. 227.51(3), Stats., ch. DE 5, Wis. Adm. Code and ch. RL 6, Wis. Adm. Code.
2. At a hearing to show cause pursuant to RL 6.09 Wis. Adm. Code, the petitioner has the burden of proof to show by a preponderance of the evidence why the summary suspension order should be continued. RL 6.09(4) Wis. Adm. Code.
3. The petitioner has failed to meet its burden of proof to show that public health, safety or welfare imperatively requires emergency action by the suspension of respondent's license to practice dentistry in the state of Wisconsin pursuant to s. 227.51(3), Stats., and therefore the summary suspension order should not be continued. RL 6.09(5) Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license to practice dentistry in the state of Wisconsin, belonging to Brian C. Painter, D.D.S. be hereby immediately restored.

Dated at Madison, Wisconsin, this 2nd day of December, 1999.

STATE OF WISCONSIN
DEPARTMENT OF REGULATION & LICENSING
1400 East Washington Avenue
P.O. Box 8935
Madison, Wisconsin 53708
Telephone: (608) 266-1790
FAX: (608) 267-0644

William Anderson Black
Administrative Law Judge